

CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5091**

66th Legislature  
2019 Regular Session

Passed by the Senate April 28, 2019  
Yeas 47 Nays 0

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**President of the Senate**

Passed by the House April 27, 2019  
Yeas 97 Nays 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5091** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5091

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AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By Senate Ways & Means (originally sponsored by Senators Wellman, Conway, Darneille, Wilson, C., Kuderer, and Takko)

READ FIRST TIME 03/01/19.

1       AN ACT Relating to state and federal special education funding;  
2       amending RCW 28A.150.392, 28A.150.415, 28A.150.390, and 43.09.2856;  
3       creating a new section; and providing an expiration date.

4       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       NEW SECTION.   **Sec. 1.**   The legislature intends to provide the  
6       funding necessary to support a comprehensive and responsive education  
7       system that fully addresses the needs of students with disabilities  
8       eligible for special education. Under the current funding model,  
9       students with disabilities eligible for special education are funded  
10      as basic education students first, with additional funding provided  
11      through a statewide multiplier intended to meet the additional needs  
12      of each student as established in the student's individualized  
13      education program. Additionally, a safety net administered by the  
14      office of the superintendent of public instruction is available for  
15      school districts that demonstrate significant extra need beyond what  
16      they receive from the base funding formula.

17      The legislature notes that school districts across the state have  
18      identified the need for additional resources to create the  
19      educational environment necessary to give every student with an  
20      individualized education program the opportunity to succeed. It is  
21      the legislature's intent to provide immediate relief to school

1 district special education programs by enhancing the supplemental  
2 funding school districts receive for every student in the program of  
3 special education and to provide easier access to the safety net when  
4 those base funds are not adequate.

5 **Sec. 2.** RCW 28A.150.392 and 2018 c 266 s 106 are each amended to  
6 read as follows:

7 (1)(a) To the extent necessary, funds shall be made available for  
8 safety net awards for districts with demonstrated needs for special  
9 education funding beyond the amounts provided through the special  
10 education funding formula under RCW 28A.150.390.

11 (b) If the federal safety net awards based on the federal  
12 eligibility threshold exceed the federal appropriation in any fiscal  
13 year, then the superintendent shall expend all available federal  
14 discretionary funds necessary to meet this need.

15 (2) Safety net funds shall be awarded by the state safety net  
16 oversight committee subject to the following conditions and  
17 limitations:

18 (a) The committee shall award additional funds for districts that  
19 can convincingly demonstrate that all legitimate expenditures for  
20 special education exceed all available revenues from state funding  
21 formulas.

22 (b) In the determination of need, the committee shall consider  
23 additional available revenues from federal sources.

24 (c) Differences in program costs attributable to district  
25 philosophy, service delivery choice, or accounting practices are not  
26 a legitimate basis for safety net awards.

27 (d) In the determination of need, the committee shall require  
28 that districts demonstrate that they are maximizing their eligibility  
29 for all state revenues related to services for students eligible for  
30 special education (~~(-eligible students)~~) and all federal revenues from  
31 federal impact aid, medicaid, and the individuals with disabilities  
32 education act-Part B and appropriate special projects. Awards  
33 associated with (e) and (f) of this subsection shall not exceed the  
34 total of a district's specific determination of need.

35 (e) The committee shall then consider the extraordinary high cost  
36 needs of one or more individual students eligible for and receiving  
37 special education (~~(students)~~). Differences in costs attributable to  
38 district philosophy, service delivery choice, or accounting practices  
39 are not a legitimate basis for safety net awards.

1 (f) Using criteria developed by the committee, the committee  
2 shall then consider extraordinary costs associated with communities  
3 that draw a larger number of families with children in need of  
4 special education services, which may include consideration of  
5 proximity to group homes, military bases, and regional hospitals.  
6 Safety net awards under this subsection (2)(f) shall be adjusted to  
7 reflect amounts awarded under (e) of this subsection.

8 (g) The committee shall then consider the extraordinary high cost  
9 needs of one or more individual students eligible for and receiving  
10 special education (~~((students))~~) served in residential schools as  
11 defined in RCW 28A.190.020, programs for juveniles under the  
12 department of corrections, and programs for juveniles operated by  
13 city and county jails to the extent they are providing a secondary  
14 program of education (~~((for students enrolled in special education))~~).

15 (h) The maximum allowable indirect cost for calculating safety  
16 net eligibility may not exceed the federal restricted indirect cost  
17 rate for the district plus one percent.

18 (i) Safety net awards shall be adjusted based on the percent of  
19 potential medicaid eligible students billed as calculated by the  
20 superintendent of public instruction in accordance with chapter 318,  
21 Laws of 1999.

22 (j) Safety net awards must be adjusted for any audit findings or  
23 exceptions related to special education funding.

24 (3) The superintendent of public instruction shall adopt such  
25 rules and procedures as are necessary to administer the special  
26 education funding and safety net award process. By December 1, 2018,  
27 the superintendent shall review and revise the rules to achieve full  
28 and complete implementation of the requirements of this subsection  
29 and subsection (4) of this section including revisions to rules that  
30 provide additional flexibility to access community impact awards.  
31 Before revising any standards, procedures, or rules, the  
32 superintendent shall consult with the office of financial management  
33 and the fiscal committees of the legislature. In adopting and  
34 revising the rules, the superintendent shall ensure the application  
35 process to access safety net funding is streamlined, timelines for  
36 submission are not in conflict, feedback to school districts is  
37 timely and provides sufficient information to allow school districts  
38 to understand how to correct any deficiencies in a safety net  
39 application, and that there is consistency between awards approved by  
40 school district and by application period. The office of the

1 superintendent of public instruction shall also provide technical  
2 assistance to school districts in preparing and submitting special  
3 education safety net applications.

4 (4) On an annual basis, the superintendent shall survey districts  
5 regarding their satisfaction with the safety net process and consider  
6 feedback from districts to improve the safety net process. Each year  
7 by December 1st, the superintendent shall prepare and submit a report  
8 to the office of financial management and the appropriate policy and  
9 fiscal committees of the legislature that summarizes the survey  
10 results and those changes made to the safety net process as a result  
11 of the school district feedback.

12 (5) The safety net oversight committee appointed by the  
13 superintendent of public instruction shall consist of:

14 (a) One staff member from the office of the superintendent of  
15 public instruction;

16 (b) Staff of the office of the state auditor who shall be  
17 nonvoting members of the committee; and

18 (c) One or more representatives from school districts or  
19 educational service districts knowledgeable of special education  
20 programs and funding.

21 (6) Beginning in the 2019-20 school year, a high-need student is  
22 eligible for safety net awards from state funding under subsection  
23 (2)(e) and (g) of this section if the student's individualized  
24 education program costs exceed two and three-tenths times the average  
25 per-pupil expenditure as defined in Title 20 U.S.C. Sec. 7801, the  
26 every student succeeds act of 2015.

27 **Sec. 3.** RCW 28A.150.415 and 2017 3rd sp.s. c 13 s 105 are each  
28 amended to read as follows:

29 (1) Beginning with the 2018-19 school year, the legislature shall  
30 begin phasing in funding for professional learning days for  
31 certificated instructional staff. At a minimum, the state must  
32 allocate funding for:

33 (a) One professional learning day in the 2018-19 school year;

34 (b) Two professional learning days in the 2019-20 school year;  
35 and

36 (c) Three professional learning days in the 2020-21 school year.

37 (2) The office of the superintendent of public instruction shall  
38 calculate each school district's professional learning allocation as  
39 provided in subsection (1) of this section separate from the minimum

1 state allocation for salaries as specified in RCW 28A.150.410 and  
2 associated fringe benefits on the apportionment reports provided to  
3 each school district. The professional learning allocation shall be  
4 equal to the proportional increase resulting from adding the  
5 professional learning days provided in subsection (1) of this section  
6 to the required minimum number of school days in RCW  
7 28A.150.220(5)(a) applied to the school district's minimum state  
8 allocation for salaries and associated fringe benefits for  
9 certificated instructional staff as specified in the omnibus  
10 operating appropriations act. Professional learning allocations shall  
11 be included in per-pupil calculations, such as special education, for  
12 programs funded on a per-pupil basis.

13 (3) Nothing in this section entitles an individual certificated  
14 instructional staff to any particular number of professional learning  
15 days.

16 ~~((+3))~~ (4) The professional learning days must meet the  
17 definitions and standards provided in RCW 28A.415.430, 28A.415.432,  
18 and 28A.415.434.

19 **Sec. 4.** RCW 28A.150.390 and 2018 c 266 s 102 are each amended to  
20 read as follows:

21 (1) The superintendent of public instruction shall submit to each  
22 regular session of the legislature during an odd-numbered year a  
23 programmed budget request for special education programs for students  
24 with disabilities. Funding for programs operated by local school  
25 districts shall be on an excess cost basis from appropriations  
26 provided by the legislature for special education programs for  
27 students with disabilities and shall take account of state funds  
28 accruing through RCW 28A.150.260 (4)(a), (5), (6), and (8) and  
29 28A.150.415.

30 (2) The excess cost allocation to school districts shall be based  
31 on the following:

32 (a) A district's annual average headcount enrollment of students  
33 ages birth through four and those five year olds not yet enrolled in  
34 kindergarten who are eligible for and ~~((enrolled-in))~~ receiving  
35 special education, multiplied by the district's base allocation per  
36 full-time equivalent student, multiplied by 1.15; ~~((and))~~

37 (b)(i) Subject to the limitation in (b)(ii) of this subsection  
38 (2), a district's annual average ((full-time equivalent basic  
39 education)) enrollment((, —multiplied by the district's funded

1 enrollment percent)) of resident students who are eligible for and  
2 receiving special education, excluding students ages birth through  
3 four and those five year olds not yet enrolled in kindergarten,  
4 multiplied by the district's base allocation per full-time equivalent  
5 student, multiplied by ~~((0.9609))~~ the special education cost  
6 multiplier rate of:

7 (A) In the 2019-20 school year, 0.995 for students eligible for  
8 and receiving special education.

9 (B) Beginning in the 2020-21 school year, either:

10 (I) 1.0075 for students eligible for and receiving special  
11 education and reported to be in the general education setting for  
12 eighty percent or more of the school day; or

13 (II) 0.995 for students eligible for and receiving special  
14 education and reported to be in the general education setting for  
15 less than eighty percent of the school day.

16 (ii) If the enrollment percent exceeds thirteen and five-tenths  
17 percent, the excess cost allocation calculated under (b)(i) of this  
18 subsection must be adjusted by multiplying the allocation by thirteen  
19 and five-tenths percent divided by the enrollment percent.

20 (3) As used in this section:

21 (a) "Base allocation" means the total state allocation to all  
22 schools in the district generated by the distribution formula under  
23 RCW 28A.150.260 (4)(a), (5), (6), and (8) and the allocation under  
24 RCW 28A.150.415, to be divided by the district's full-time equivalent  
25 enrollment.

26 (b) "Basic education enrollment" means enrollment of resident  
27 students including nonresident students enrolled under RCW  
28 28A.225.225 and students from nonhigh districts enrolled under RCW  
29 28A.225.210 and excluding students residing in another district  
30 enrolled as part of an interdistrict cooperative program under RCW  
31 28A.225.250.

32 (c) "Enrollment percent" means the district's resident ~~((special~~  
33 education)) annual average enrollment of students who are eligible  
34 for and receiving special education, excluding students ages birth  
35 through four and those five year olds not yet enrolled in  
36 kindergarten and students enrolled in institutional education  
37 programs, as a percent of the district's annual average full-time  
38 equivalent basic education enrollment.

1       (~~((d) "Funded enrollment percent" means the lesser of the~~  
2 ~~district's actual enrollment percent or thirteen and five-tenths~~  
3 ~~percent.))~~)

4       **Sec. 5.** RCW 43.09.2856 and 2018 c 266 s 406 are each amended to  
5 read as follows:

6       (1) Beginning with the 2019-20 school year, to ensure that school  
7 district local revenues are used solely for purposes of enriching the  
8 state's statutory program of basic education, the state auditor's  
9 regular financial audits of school districts must include a review of  
10 the expenditure of school district local revenues for compliance with  
11 RCW 28A.150.276, including the spending plan approved by the  
12 superintendent of public instruction under RCW 28A.505.240 and its  
13 implementation, and any supplemental contracts entered into under RCW  
14 28A.400.200.

15       (2) If an audit under subsection (1) of this section results in  
16 findings that a school district has failed to comply with these  
17 requirements, then within ninety days of completing the audit the  
18 auditor must report the findings to the superintendent of public  
19 instruction, the office of financial management, and the education  
20 and operating budget committees of the legislature.

21       (3) The use of the state allocation provided for professional  
22 learning under RCW 28A.150.415 must be audited as part of the regular  
23 financial audits of school districts by the state auditor's office to  
24 ensure compliance with the limitations and conditions of RCW  
25 28A.150.415.

26       (4) (a) The state auditor must conduct a financial or  
27 accountability audit of each school district by June 1, 2020, for the  
28 2018-19 school year to include a review of the following:

29       (i) Special education revenues and the sources of those revenues,  
30 by school district; and

31       (ii) Special education expenditures and the object of those  
32 expenditures, by school district.

33       (b) Special education data reported for each school district  
34 through the audits under this subsection must be compiled and  
35 submitted to the education committees of the legislature by December  
36 1, 2020.

1        NEW SECTION.    **Sec. 6.**    Section 5 of this act expires December 1,  
2    2021.

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